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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,250	07/09/2003	Juan Anguera Font	ANGJ 8704US	9494

1688 7590 06/29/2005

POLSTER, LIEDER, WOODRUFF & LUCCHESI
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ST. LOUIS, MO 63131-3615

EXAMINER

RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,250

Applicant(s)

FONT, JUAN ANGUERA

Examiner

John Rivell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/21/05 (amend/spec. req for recon).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive.

Claims 1-10 remain pending.

Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Spain on January 9, 2001 (the Spanish application) and January 8, 2002 (the International Application). A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on either of said applications, since the United States application, filed under 35 USC 111 was filed (July 9, 2003) more than twelve months thereafter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-7 are rejected under 35 U.S.C. §102 (b) as being anticipated by Khun.

The patent to Khun discloses “a two-way trap comprising: an inlet pipe (10); an outlet pipe (11); a general trap section (lower trap 12) attached to and disposed between the inlet pipe and outlet pipe such that when filled with water to an equilibrium water level equal to the lowest point of the outlet pipe (11), air does not freely communicate between the inlet pipe and the outlet pipe (as shown in figure 1 for example); and an auxiliary trap section (read at upper pipe section 13) attached to one of said inlet pipe and general trap section (here connected to the inlet pipe 10) at a point

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above the equilibrium water level (the inlet end of section 13 is connected to the inlet 10 at a liquid level "above the equilibrium water level as shown in fig. 1) at a first end and attached to the general trap section (12) at a point (through port 14) below the equilibrium water level at a second end, such that if the general trap section (12) became blocked water would flow through the auxiliary trap section yet air would not freely communicate between the inlet pipe and the outlet pipe" as recited in claim 1.

Regarding claim 3, in Khun "the two-way trap further includes a manhole (at either cap 19 in the inlet 10 and the outlet 11) to provide access for repair" as recited.

Regarding claim 4, in Khun, "the auxiliary trap is in vertical alignment with the general trap" as recited.

Regarding claim 5, in Khun "the auxiliary trap is offset to one side of the general trap" as recited.

Regarding claim 6, Khun discloses "an improved drainage system: an inlet pipe (10), an outlet pipe (11) and a general trap (read at lower trap 12) disposed between said inlet and outlet pipes, said general trap providing that when filled with water to an equilibrium water level equal to the lowest point of the outlet pipe, air does not freely communicate between the inlet pipe and the outlet pipe (as shown in fig. 1), the improvement comprising an auxiliary trap (read at section 13) disposed between the inlet pipe (10) and the outlet pipe (11) and having an inlet end operatively attached to the inlet pipe and an outlet end operatively attached to the outlet pipe below the equilibrium water level, such that if the general trap (12) became blocked, water would

flow through the auxiliary trap yet air would not freely communicate between the inlet pipe and the outlet pipe" as recited.

Regarding claim 7, in Khun "the auxiliary trap includes a manhole (read at cap 19) to provide access for repair" as recited.

Regarding applicants remarks concerning the above, the argument and illustration regarding a blockage in the trap section 12 of Khun at or downstream of the connecting port 14 is agreed with. However, the claim language is not specific as to where in the "trap section" the potential blockage may occur yet still operate as claimed. That is, when the trap section 12 of Khun becomes blocked within the portion between the inlet of the trap section 12 with the inlet port 10 and the connecting port 14, the secondary trap section 13 functions as claimed.

Likewise it is noted that in applicants device, should the blockage occur downstream of the connection of the secondary trap section 28 to the primary trap section 26, e.g. within section 30, applicants trap device fails to operate as claimed.

Insofar as it concerns applicants arguments regarding the "problems" solved, it is not understood how the structural elements of Khun, identical to those of the claim, functioning in the manner claimed, fail to solve the same "problem.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khun.

The patent to Khun discloses the claimed features with the exception of having "the diameter of the auxiliary trap (be) smaller than the diameter of the general trap". In Khun the diameters appear to be the same.

However, to employ an auxiliary trap having a smaller diameter than the general trap in Khun is considered to be an obvious design expedient over the diameters of the respective traps as disclosed in Khun which provide no new and/or unexpected results nor solves any stated problem.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khun in view of Trueb et al.

The patent to Khun discloses all the claimed features with the exception of having the respective traps "formed from straight plastic pipe sections".

The patent to Trueb et al. at column 5, lines 57-60 discloses that it is known in the art to employ straight plastic pipe sections forming a drain trap generally shown in fig. 1 for the purpose of accommodating sewer water and precluding the effects the sewer water would have on normal metallic piping.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Khun "straight plastic pipe sections" forming the trap device of Khun for the purpose of accommodating sewer water and precluding the effects the sewer water would have on normal metallic piping as recognized by Trueb et al.

Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khun in view of Caple.

The patent to Khun discloses all the claimed features with the exception of having an "alarm" indicative of drain blockage.

The patent to Caple discloses that it is known in the art to employ a probe 11 fitting within a standard drain trap at 5 for the purpose of indicating drain pipe blockage indicated by sewer water backup caused by pipe blockage.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Khun an alarm probe located in the standard trap 12 for the purpose of indicating drain pipe blockage as recognized by Caple.

Regarding applicants further remarks concerning the above, the arguments merely assert that the prior art used fails to show the claimed subject matter, without supporting arguments and/or asserts allowability based on dependence from "an allowable claim".

As specifically set forth above, each of the remaining claims, rejected under 35 USC 103 are rejected on the basis of obviousness in view of the respective teachings properly disclosed by the prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Rivell
Primary Examiner
Art Unit 3753

j.r.